

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13105, of Gary Investment Inc., pursuant to Paragraph 8207.11 of the Zoning Regulations, for variances from the lot area and lot width requirements (Sub-section 3301.1) for a proposed construction of a single family detached dwelling in an R-2 District at the premises 720 - 56th Street, N.E., (Square 5213, Lot 26).

HEARING DATE: January 23, 1980

DECISION DATE: April 2, 1980

FINDINGS OF FACT:

1. The subject site is located on the southwest corner of the intersection of 56th and Hayes Streets, N.E. and is known as 720 - 56th Street, N.E. It is in an R-2 District.
2. The subject site is 2502 square feet in area and is unimproved. There is a fifteen foot public alley to the rear of the site.
3. The subject site is basically rectangular in shape except for its northeast corner which is cut off at an angle.
4. The applicant proposes to construct a single family detached dwelling on the site. The Zoning Regulations for a detached dwelling in an R-2 District requires a minimum lot area of 4,000 square feet, a lot width of forty feet and a side yard of eight feet. The applicant seeks a lot area variance of 1498 square feet or thirty-seven percent and a lot width variance of 16.44 feet or forty-one percent.
5. An existing single family house on the adjoining lot 25 projects on the subject lot 26 for a distance of two feet as indicated in the report of the Office of Planning and Development marked as Exhibit No. 26 of the record. This is not reflected on the plat on file. The applicant will have to amend the application and request a side yard variance of two feet.
6. The applicant testified that the lot was a buildable lot when purchased in the mid-1960's.

7. The Board requested the OPD to prepare a report on application Nos. 13105, 13106 and 13107. The report was served on all parties and their comments were requested. All three applications were filed by the same applicant. In each application the applicant proposes to develop the site with a single family detached dwelling. All three sites are located in the same neighborhood in close proximity to each other. The OPD provided one consolidated report.

8. In its report, dated February 26, 1980, the OPD reported that as to lot 26, application No. 13105, a building permit was issued in April 1968, to allow the construction of a single family dwelling. The building permit expired. The status of the site remained unchanged to date. The OPD reported that although the building permit was issued in 1968 for a detached dwelling, the lot area was calculated on the basis of 3000 square feet specified for a semi-detached dwelling instead of the required 4000 square feet for detached dwelling under Section 3301.1. The OPD further noted that the Zoning Regulations were amended in the early 1970's to include a new Sub-section 3305.4 which reads as follows:

3305.4 In R-2, R-3, R-4 and R-5 Districts when a one family dwelling, flat or multiple dwelling is erected which does not share a common division wall with an existing building or a building being constructed together with the new building then it shall have a side yard on each resulting free standing side.

The structure proposed in this case is thus required to have a side yard on each side and is thus by definition a detached dwelling. Such a structure is required to have a minimum lot area of 4,000 square feet and not 3000 square feet as specified for a semi-detached dwelling in the R-2 District.

It was the OPD's recommendation that because of the extent of the three variances requested the proposed development will overcrowd the site and adversely impact the existing structure on lot 25 a part of which is located on the subject site. The Board so finds.

9. Advisory Neighborhood Commission - 7C objected to the application on the grounds that there is not sufficient square footage to build the single family dwelling without constructing unsightly and undesired buildings. The Board concurs as to the smallness of the site.

10. The Burville Civic Association and owners of property in the immediate area objected to the application. There was also a petition of neighboring residents in opposition. The grounds of the opposition were that any variance in excess of ten percent was too great and would have a negative impact on the neighborhood, that inferior-type housing would result and that the adjoining property owners would have their right of privacy violated. The Board so finds as to the extent of the variance and the violation of privacy.

11. The applicant, in rebutting the objections raised, testified that he has been building the subject neighborhood for over twenty-six years, that he is not a speculator and that warranties are issued on the dwellings he constructs. The Board does not question the integrity of the applicant. It is the Board's opinion that the builder would be constricted in his plans because of the size of the land area.

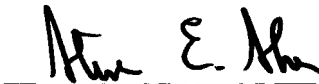
CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is seeking area variances, the granting of which requires a showing of a practical difficulty upon the owner of the property that is inherent in the property itself. The Board concludes that the limited land area of the subject lot constitutes a practical difficulty, in that no development of the lot is permitted without a variance. However, the Board concludes that a lot area variance of thirty-seven percent, a lot width variance of forty-one percent and a possible side yard variance of twenty-five percent are too great. The Board notes the objections of the ANC and the neighboring property owners in which it substantially concerns. The Board further concludes that the application cannot be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan. Accordingly, it is ORDERED that the application is DENIED.

VOTE: 4-0 (Charles R. Norris, Connie Fortune, William F. McIntosh and Leonard L. McCants to DENY).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

18 JUN 1980

FINAL DATE OF ORDER: _____

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."